

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8475 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAMAN BHAGA RATHOD

Versus

VS GHADHAVI

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Appearance:

MR MIG MANSURI for Petitioner

MR UA TRIVEDI, AGP for respondents

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 27/11/96

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged the order of detention dated 28/08/96.

2. The learned counsel for the petitioner, who has raised number of contentions in the memorandum of this Special Civil Application, he has pressed only one contention that there was undue and unreasonable delay in passing the order of detention by the detaining authority

and that the delay which stands unexplained, vitiates the impugned order.

3. Learned counsel has invited my attention to the statements made in para 5 of the petition. It is stated that the sponsoring authority made the proposal for detention of the detenu on 15/4/96, but the order of detention was made on 27/08/1996 i.e. after almost four months.

4. This Court made the rule returnable within three weeks on 04/11/1996. The respondents were also directed to file reply in the meanwhile. No reply has been filed.

5. Following the law laid down by the Apex Court in Pradeep Nilkantha v. S.Ramamurthi AIR 1994 SC 656, the impugned order of detention is vitiated on account of unexplained delay in passing the order of detention.

6. In view of the aforesaid, this Special Civil Application is allowed. The impugned order of detention is quashed and set aside. The detenu is directed to be released forthwith, if he is not required in any other case. Rule is made absolute accordingly.

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